

**REMARKS/ARGUMENTS**

Claims 1, 3-18 and 23-28 are pending. By this Amendment, claim 2 is cancelled without prejudice or disclaimer and claims 3-7 are amended. Reconsideration and allowance in view of the above amendments and following remarks are respectfully requested.

It is respectfully noted that claim 28 is not mentioned in the Office Action, as is required by MPEP §707.07(i). In the event that claim 28 is not indicated to be allowable, it is respectfully submitted that the next Office Action must be non-final as no grounds of rejection against claim 28 would be necessitated by the instant reply.

Claims 1, 13-15, 17, 23, and 25-27 were rejected under 35 U.S.C. §102(e) over Kwok et al. (U.S. Patent 6,532,961). The rejection is respectfully traversed.

The subject matter of claim 2 has been incorporated into independent claim 1. Thus, claims 1, 3-12, 23 and 24 are allowable.

Claim 13 recites a respiratory mask comprising a mask frame having a forehead support member and a plurality of strap attachment portions, integral to at least one of the mask frame and the forehead support member, for attaching straps to the respiratory mask to mount the respiratory mask on a facial region of a user, and a foldable beam between the mask frame and the forehead support member, whereby an angle of the mask frame relative to a facial region of the user is adjusted by folding the foldable beam.

The Office Action, in the paragraph spanning pages 2-3, alleges that Kwok et al. disclose a forehead support member 12 and a foldable beam which can be considered elements 12 and 14 which define side segments.

It is respectfully noted that the Office Action equates the T-shaped cushion frame 12 of Kwok et al. with both the forehead support member and the foldable beam. It is respectfully

submitted that the reliance on one element of Kwok et al. as corresponding to two elements of claim 13 clearly demonstrates that Kwok et al. fails to present a *prima facie* case of anticipation against claim 13. Kwok et al. cannot disclose each and every element of claim 13 if the T-shaped cushion frame 12 is required to correspond to both the forehead support member and the foldable beam.

Claims 14-18 and 25-27 recite additional features of the invention and are allowable for the same reasons discussed above with respect to claim 13 and for the additional features recited therein.

Reconsideration and withdrawal of the rejection of claims 1, 13-15, 17, 23 and 25-27 under 35 U.S.C. §102(e) over Kwok et al. are respectfully requested.

Claims 13 and 25-27 were rejected under 35 U.S.C. §102(e) over Gunaratnam (U.S. Patent 6,520,182). The rejection is respectfully traversed.

As was explained in detail on page 7 of the response filed December 10, 2007, U.S. Patent 6,520,182 to Gunaratnam is not prior art under 35 U.S.C. §102(e) as it is not "by another." However, as also explained in detail on page 7 of the response filed December 10, 2007, U.S. Patent 6,520,182 corresponds to WO 00/57942 which qualifies as prior art under 35 U.S.C. §102(b). Moreover, as explained in detail on pages 7-8 of the December 10, 2007 response, WO 00/57942 does not disclose or suggest a foldable beam between the mask frame and a forehead support member as the pair of arms 22 of WO 00/57942 are not foldable, nor are the pair of arms 22 provided between the mask frame 14 and the forehead support 10. It is respectfully noted that the Examiner has not provided any answer to these arguments, as is required by MPEP §707.07(f).

Reconsideration and withdrawal of the rejection of claims 13 and 25-27 under 35 U.S.C. §102(e) over Gunaratnam are respectfully requested.

Claims 8 and 24 were rejected under 35 U.S.C. §103(a) over Kwok et al. in view of Gleason et al. (U.S. Patent 6,016,804). As discussed above, claim 1 has been amended to incorporate the subject matter of allowable claim 2. Accordingly, the rejection of claims 8 and 24 is moot.

Should the Examiner believe that anything further is necessary to place the application in condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:           /John P. Darling/            
          John P. Darling  
          Reg. No. 44,482

JPD:tlm  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100